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REMARKS

Applicants' undersigned attorney thanks the Examiner for her comments. Applicants respectfully request reconsideration of this patent application, particularly in view of the following remarks. Currently, Claims 1-35 are pending.

Claim Rejections - 35 U.S.C. §103

The rejection of Claims 1-8, 10-17, and 19-35 under 35 U.S.C. §103(a) as being unpatentable over Dragoo et al. (U.S. Patent No. 6,229,061, hereinafter "Dragoo") is respectfully traversed, particularly in view of the above Amendment and the following remarks.

Dragoo discloses a package of absorbent articles having different absorbent capacities, as well as a method of treating incontinent infirmities of a wearer that includes the step of providing a package of absorbent articles having different absorbent capacities. Dragoo fails to disclose or suggest a series of types of *training pants* that vary in any aspect other than absorbent capacity. Furthermore, Dragoo fails to disclose or suggest the conveyance of any information to consumers directed to the applicability of one type of *training pant* over other types of *training pants*.

To establish a prima facie case of obviousness, there must be some suggestion or motivation, either in the reference itself or in the knowledge generally available to one of ordinary skill in the art, to modify the reference. Additionally, the prior art reference must teach or suggest all the claim limitations.

Applicants' claimed invention is directed to a method of providing a series of types of *training pants* to consumers. The Examiner states that it is well known in the art that diapers such as those disclosed by Dragoo are sold in many different sizes, such as for premature babies, normal (average) sized babies, older babies (older than 12 months), and toddlers (24 months and beyond). Dragoo further indicates that the size and absorbent capacity of the absorbent core may be varied to accommodate wearers ranging from infants through adults. However, Dragoo fails to disclose or suggest at least three types of *training pants* having at least two differences from one another. Training pants are typically geared toward toddlers, not

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infants or adults. Thus, training pants fall into a much smaller size range than the garments in Dragoo.

The Examiner indicates that since the diaper in Dragoo can be used alone or with the insert, the recited different sizes are considered to be the multiple inserts with different absorbent capacities and the different absorbent articles with different absorbent capacities. Applicants define the term "size" on page 18, lines 5-20, as referring to the size of the waist opening when extended by a force of 2,000 grams. Therefore, the garments in Dragoo would not qualify as differing in "size" merely by coupling an absorbent insert with a garment because the absorbent insert would not affect the waist size of the garment.

With respect to Claims 4-6, 16, 23, and 25, the Examiner states that a specific absorbency range for each article is considered to be a result effective variable of the quantity of absorbency needed for a particular use, i.e. overnight, training pant, daywear. However, each of the garments in the series claimed by Applicants is a training pant. Based on the teachings of Dragoo, and evidenced by the Examiner's categorization of "training pant" as a single level of absorbency, it is not obvious to vary the absorbent capacity among training pants within a series of training pants, as recited by Applicants.

As described on pages 2-6 of the subject application, the toilet training process can be facilitated by providing different types of training pants during different stages of the toilet training process. As a child progresses through the toilet training process, he or she should not necessarily progress from smaller garments having a smaller absorbent capacity to larger garments having a larger absorbent capacity. For certain children displaying certain signals, an appropriate subsequent garment may be larger but may have a smaller absorbent capacity than the child's current garment. However, for other children displaying other signals, the most appropriate subsequent garment may be a larger garment having a greater absorbent capacity than their current garment. Other children may progress from one stage of toilet training to another in which they may benefit from wearing garments having the same size and absorbent capacity as their current garment, but with different wetness indicators, gender specificity, and/or more hands-on features such as refastenable side

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seams. Thus, by conveying information to a consumer indicating greater applicability of one of the garment types in the series over other garment types in the series, the consumer can determine which training pant will be most appropriate for a specific child.

With respect to Applicants' Claims 13-35, these embodiments of the present invention require a series of training pants that differ at least in terms of size and absorbent capacity. As explained above, Dragoo fails to disclose or suggest a series of training pants that differs in size. Furthermore, Dragoo fails to disclose or suggest garments that differ from one another in absorbent capacity as well as in sizes that do not necessarily increase with increased absorbent capacity. In fact, Dragoo provides garments that *increase* in absorbent capacity (i.e., through the addition of the absorbent insert), but fails to disclose or suggest a reduction in absorbent capacity for wearers of increasing size or through the progression of toilet training, as provided by Applicants' series of training pants. Thus, Dragoo teaches away from a series of garments that decreases in absorbent capacity through the progression of toilet training.

Dragoo fails to provide any suggestion or motivation to convey any information to a consumer with respect to the applicability of the various absorbent articles *based on signals displayed by a child*. The Examiner acknowledges Dragoo's failure to convey such information, but opines that it is obvious that a manufacturer would provide information on the package or on an insert that instructs the consumer how to effectively use the product. Packages of absorbent articles sometimes provide instructions for applying the article to a wearer, and may sometimes indicate the size of the articles relative to a wearer's weight, or whether the articles are suitable for overnight wear, but none of these indicia are related to "signals" displayed by a child. Examples of signals displayed by a child include the frequency and location of urination or bowel movements, use of the bathroom, understanding of toilet training terms, activities handled independently by the child, and communications from the child about the need to use the bathroom, as described on page 22, lines 17-20, of the subject application. Conveyance of information based on signals displayed by a child provides a much more in-depth analysis of the appropriateness of one type of toilet

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training garment versus another. Because each child is different, a parent may not know which stage of toilet training the child is in, particularly if the child has regressed. Basing the selection of the toilet training garment on the signals displayed by the child directs a consumer to a garment having the most appropriate size, absorbent capacity, structure, additional features, and/or other variables that may not be apparent from the child's weight and/or age.

With respect to Claims 10, 11, 19, and 20, Applicants describe on page 5, line 15 – page 6, line 2, the beneficial uses of sensory signals at various stages of the toilet training process. Absent impermissible hindsight, based on Dragoo, there is no suggestion to a person skilled in the art to modify the teachings of Dragoo to include certain wetness indicators in combination with certain types of training pants and not others.

It is the *combination* of (1) providing a series of different types of training pants, and (2) conveying information comparing these training pants to one another with respect to the child's signals, that addresses a child's needs and abilities as the child progresses through the toilet training process. Dragoo fails to disclose or suggest this combination of steps.

For at least the reasons given above, Applicants respectfully submit that the teachings of Dragoo fail to disclose or suggest Applicants' claimed invention. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

Conclusion


Applicants intend to be fully responsive to the outstanding Office Action. If the Examiner detects any issue which the Examiner believes Applicants have not addressed in this response, Applicants' undersigned attorney requests a telephone interview with the Examiner.

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Applicants sincerely believe that this Patent Application is now in condition for allowance and, thus, respectfully request early allowance.

Respectfully submitted,


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